

From: D. Dietzel
To: Microsoft ATR
Date: 11/20/01 11:09pm
Subject: Microsoft Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

CC: dd

FROM:
Dennis Dietzel
301-G Marshall Street
Jefferson City, Missouri 65101

11/21/2001

Dear U.S. Department of Justice, Attorney General John Ashcroft:

Having read the latest relevant and recommended documents on your website regarding the currently proposed settlement of the monopoly/anti-trust case with Microsoft, I wish to give you my comments, and urge you to reconsider and rewrite this 'settlement', as it does very little, if anything, in offering any meaningful, significant remedy or relief to the average home computer user/Citizen, who has been harmed by Microsoft's prior and continuing illegal, restrictive and extremely invasive behavior/business practices.

I am 49 years old, a disabled American citizen living solely on Social Security Disability, and I have been not only a computer user, but a computer builder, system administrator and computer service person for many years. I have used many of Microsoft's (and other companies') software products for many years, and have followed this court case involving Microsoft with keen interest.

It is my firm belief, and the belief of many Citizens with whom I am acquainted and have spoken with concerning this case and proposed settlement, that Microsoft has in the past, can and will continue to control, inhibit and restrict not only other companies' products (competitive or not) purchased by the end user from working and interacting well with the Windows OS, but will also reduce the average Citizens' and users' control over and use of their operating systems (Windows XP) and unwanted and competing Microsoft programs 'added into' the Windows OS by Microsoft, (as Microsoft has demonstrated time and again, most conclusively and consistently over many years, and was in fact convicted of).

In examining the Proposed Settlement and Impact Statement, I can find no effective or realistic proposed remedy for or benefiting any of our Citizens and legal computer end users of Microsoft software in the United States of America from the past or the present continued illegal misconduct and monopolistic, invasive and restrictive misbehavior by Microsoft Corporation, unless said Citizen(s) would be fortunate enough to have access to an unlimited amount of funding which would be required to obtain effective legal representation at a powerful and persistent enough level to bring any such violations to the attention of the Court and sustain such action, much less in order to obtain any meaningful Judicial relief. If you, our United States Department of Justice and our Federal Court system cannot obtain effective relief for the public now, at this time, in this settlement as a result of Microsoft's conviction, it is extremely unlikely you will be able to do so at 'some future date', as is commonly stated by most lawyers in their conversations when discussing 'remedies' for violations of court orders or illegal or improper behavior by any person or entity convicted of a crime..

As far as any evidence I can offer for my views and comments, I can factually state that by my own exhaustive efforts, Microsoft Internet Explorer still cannot be effectively removed by the average end user (which was one of the main issues in this case when it was brought), either in past or in the newest and present Windows XP OS released last month (October, 2001). Most if not all home end-user/Citizen control or adjustment of program control involving home user interaction with Internet Explorer and Windows XP itself is either eliminated or severely restricted, and most other computer software programs sold for use with any previous Windows OS prior to the date of release of 'XP' is made instantly incompatible with the upgrade installation of XP, and will in fact not function. If I want to upgrade my current version of Windows 98SE to Windows XP as of this writing, 9 out of 10 of my own quite beautifully functioning, very expensive and non-Microsoft software programs will absolutely not work with Windows XP,

MTC-00001738_0002

and I will be forced as a result of this to buy entirely new or alternate versions of the various programs I mention, in order to continue using them with this 'new and improved' version of Windows. As an analogy, why should I have to overhaul the engine of my car, put in a new car stereo, seats and interior, and pay for a new paint job on the exterior, just because I want to purchase a better set of better tires and wheels for the car, i.e., as the new Windows XP OS upgrade represents to me and my use of my personal home computer?

To use an upgrade to Microsoft's 'XP' past 30 days following my legal purchase and installation of this software on my computer, myself or any other legal home computer user must either have an active Internet connection or physically make a telephone call to Microsoft, in order to 'activate' Windows XP by transmitting or quoting a very long sequence of numbers, and then in turn enter into my computer another extremely long sequence of numbers EXACTLY as quoted to me by a Microsoft representative, in order to receive 'activation permission' to continue to use the software upgrade on my computer; if I do not do so, my computer is made instantly INOPERATIVE, and I must reformat my hard drive, losing all of my programs, data and hard work, since the computer will not boot! Microsoft's new advertising slogan may be, 'Yes, you can', but rest assured that most home users do not and cannot find it amusing to stay on hold on their telephones with a company for 30 minutes, in order to receive permission from a Microsoft company representative to continue using a product they have obtained and paid for legally, that they have taken great pains to install and upgrade on their personal property, i.e., our home PC's. At this writing, Microsoft has acknowledged that the public uproar and reaction to their newly-adopted 'activation' requirement', has resulted in an illegally written 'pirate' software program that is currently in world-wide distribution as a no cost download, and is readily available to anyone in order to overcome Microsoft's Orwellian invasion of a legal computer user's right to privacy. This illegal software, which if downloaded and used by any legal computer user in order to continue their use of their already-paid-for and installed product upgrade on their home computer, would of course, make said prior legal users new criminals. Microsoft by their own admission, has clearly stated since the release of XP and the illegal software 'fix', that they had anticipated such an event, so the question is raised, if Microsoft has publicly announced that it anticipated that it's own behavior would inspire otherwise law-abiding computer users to become criminals, in order to continue to use their already legally acquired and paid for software upgrades on their home computers, then why does Microsoft engage in such invasive and restrictive actions in the first place? As the proposed settlement or impact statement does not address this specific matter in any manner that I can recognize, I must state for the record that NO other American software requires this type of outrageous, restrictive and invasive seeking of it's 'permission' in order for it's software product to continue to be used legally by the average home user/Citizen, who has already paid their license/software charge and installed the XP OS software on their home computers. As long as the home user/Citizen pays for their own licensed use of the Windows software/operating system (obtaining by legal purchase of course), it is NONE of Microsoft's business what brand name computer the Citizen uses, how many or what kind of hardware components a Citizen chooses to uses/alter/change, nor what component changes the home user may decide to make in the future to his/her privately owned personal computer and it's components in order to legally install, re-install or to continue to use the Windows XP upgrade or any other Microsoft Operating System on their home computer. It is the same principle, in that it is no more the business of my local Wal-Mart grocer how many dozen eggs I am going to buy from their store, how I will arrange the eggs in my kitchen, how I am going to cook my meals with any of the food I purchase from them, what kind of frying pan, bowl, spatula, microwave oven or stovetop range or oven I cook my food with, as long as I am not going to break the law doing it! (Please note my previous analogy to the automobile tires). This is another continuing example of the extremely restrictive and invasive behavior being currently forced at this very moment in our history, upon the average home user/Citizen by Microsoft, as it is already illegal to make copies of Windows, or to install the software on more than one personal computer at a

time. I believe that not only I, but the vast majority of my fellow Citizens and home computer users in this country respect and obey this law, and that I/we do NOT infringe on Microsoft's rights in any way, shape or form!! It is not credible to any reasonable and law-abiding person that Microsoft would honestly respond to any such request from anyone made to Mr. Gates or his company, Microsoft, for their personal information, or that anyone would inform him that he cannot make changes to his own or his companies' computers' components without contacting all of his registered customers first. (I don't think it would be reasonable that I or any other Citizen or home computer user who buys or uses Windows XP would make such an invasive personal request of Mr. Gates or Microsoft, nor would I be realistically interested in said personal information, before deciding whether to buy the Windows XP upgrade from Microsoft., much less before installing and continuing to use it, but this IS my point).

If I or any other legitimate computer user keeps my/his/her legitimate sales receipt and CDKEY registration number provided with the Windows XP OS software upgrade purchase as proof of ownership/license, as has always been the acceptable practice in the past by Microsoft when a Citizen pays for it's software/OS upgrades, why must I/we be forced to comply with such an invasion of my personal computing privacy, by and from a company who in fact has been convicted of monopolistic wrongdoing and lawbreaking, whose only intent is to poke it's corporate nose inside of not only the inside of my computer (my personal PRIVATE property), but more specifically, where my computer is located in my home; in my bedroom??? I repeat; as long as I or any other legal user is not engaging in illegal behavior, such as making illegal copies of Microsoft's programs or re-selling them, altering their code or installing more than one copy of the XP OS upgrade software, it is MY business what I do with the inside components of my computer, and certainly not Microsoft's!!!

Continuing further, on each bootup of the new Windows XP OS upgrade, and at various other intervals determined by Microsoft, the end user/Citizen is currently bombarded with constant harassment from Microsoft to entice him/her to enter intimate personal information (including financial information) in order to use it's 'Passport' system, which Microsoft tries to pass off as a computer users'/Citizens' 'convenience', but is actually subjecting me or any other home user to more extremely invasive and harassing behavior, on Microsoft's behalf, to say the least. IT IS NONE of Microsoft's or anyone else's BUSINESS what my personal information is! I don't want to pay for continued, forced sales pitches or Microsoft's corporate propaganda every time I boot my computer's operating system or open a 'window'. I want a functional operating system upgrade for my computer with NO post-installation nonsense from Microsoft. As far as I can determine, there is no clear way to stop this automatic harassment which is now sold and incorporated inside of the XP OS upgrade, short of un-installing Windows XP, which endangers my previous version of the operating system, and my personal data! Microsoft's only concession on this point is to say that their harassing invasiveness will eventually 'go away by itself'.

I note that there is some evidence offered in the Impact Statement concerning the automatic way the Windows XP OS upgrade currently forces unwanted and unapproved changes of configuration or operating system environment conditions, such as, that in the future, the user/Citizen must be given notice and the chance to approve or refuse such automatic, unwanted or unsolicited changes by Windows XP. I applaud this part of the Statement, but it does not address any of the concerns I have raised in my comments above, nor does the Statement address the fact that in buying, installing and using Windows XP, Microsoft forces a user/Citizen to obtain a 'virtual' program from Microsoft in order to run programs containing 'Java', their own 'virtual Java download'. Part of the original complaint in this lawsuit dealt with Microsoft's illegal behavior toward the Java writers (the company who owns the Java code) and subsequent users of programs utilizing Java code. If a home user/Citizen does NOT comply with Microsoft's edicts by downloading Microsoft's 'virtual Java download', the home user's currently installed and used programs utilizing Java will no longer work with the XP

upgrade. If the average home user/Citizen who legally purchases the Windows XP OS does not possess an internet connection to download all of these 'fixes' or other such relief which may be provided by Microsoft such as 'virtual Java', or other remedies that may be imposed by the Court, there is effectively no relief or remedy provided to the American public at large in this matter, as Microsoft has never before and most likely will never in the future voluntarily issue free disks (CD's or otherwise) to impacted legal users, consumers and Citizens, without first demanding some type of mandatory charge or fee from those users concerned, to correct/remedy this behavior.

As far as the '3 person, Court appointed committee of computer experts' that will supposedly have total access to all of Microsoft's inner workings, computer code, documents, etc., to ensure that Microsoft will not further engage in any illegal and bad behavior, could you kindly please reassure and inform me (and all of the other American home computer users who pay for, legally own and use Microsoft software), whom these 'experts' might be, what makes them computer experts, and how any average, reasonable Citizen can be expected to believe that only '3 computer experts' can possibly be constantly examining all of the inner workings of the Microsoft Corporation, all of it's programming activities and business divisions in any meaningful way, so that Microsoft WILL be forced to comply with the Court's Order? Only 3 people/experts?!? How many attorneys contributed to bringing this case before the Court, and to it's current status of Proposed Settlement? I don't think that 3 lawyers much less 3 'computer experts', could or would have taken the particulars of this case on for trial, much less to ensure compliance with a settlement, although it might currently take 3 lawyers just to explain the current proposed settlement and Impact Statement to the average end user/Citizen, so that they could fully understand the terms and future implications of said settlement in order to intelligently offer their concerns and comments to the Court!

I strongly believe that there should be NO EXPIRATION DATE of any final order regarding this proposed settlement, just as there is no expiration date mandated by law or court order, for notifications and recalls to the American public regarding dangerous or defective consumer products. As I mention at the beginning of my comments, I have used Microsoft software products for many years, and have NEVER seen a product recall involving the failures of their software (or of any Court order forcing them to comply with any court order or law dealing with flawed products).. If the automobile industry were allowed to make cars that were as restrictive to use, and as defective in use, as Microsoft Windows operating systems and upgrades have proven to be time and again over the years, the auto industry would have gone out of business many, many years ago.

In closing, I again respectfully but most strongly request and urge the U.S. Department of Justice and the Court to rethink and rewrite the 'proposed settlement' of this case, and to instead offer a settlement that will actually benefit the public; the average home user/Citizen, including the stated alternative considerations listed, such as mandating Microsoft to issue a stand-alone version of it's operation systems completely devoid of it's own 'Middleware' products, without the OS's automated changes and restrictive, invasive 30-day 'activation' ploy/scheme, at a reduced price. Allowing Microsoft to give \$1,000,000,000.00 worth of 'free' software to the American public schools is a very nice gesture, and I'm sure our schools will be very happy with this philanthropic gesture by Microsoft and Mr. Gates, as the news media is reporting today. However, this gesture doesn't protect nor does it offer any relief the average home user/Citizen to any degree, nor does it mandate any form of punishment to Microsoft for breaking the law in the past or in the future, except to 'extend' the period of time for court-ordered supervision of Microsoft by the '3 computer experts'. Such action does NOT constitute remedy, protection or punishment that is readily observable to the average, reasonable American.. Personally, I don't want to have to go back to high school to use Microsoft's gift of free software to the American school system, in order to benefit from this 'proposed settlement' as it stands. Surely Mr. Gates can do something more meaningful for the public to show Microsoft is attempting to mend their ways and to

redeem their illegal behavior, than to give away software to only our public schools, something which Mr. Gates' private 'Gates Foundation' does already. I think that a more meaningful and appropriate condition of settlement would be for Microsoft to be required to offer at no cost, a new and current Windows operating system upgrade (without restrictive and invasive actions required by the end user) to legal computer user/Citizens, who have purchased and installed any Windows operating system during the period of time that this legal action has transpired, until final settlement of this case. To the American public, it might be worth \$1,000,000,000.00 for Microsoft to be mandated in this settlement to undertake such an action, as said condition would truly address the wrongs committed by Microsoft upon the public in a far more genuine and realistic manner than by Microsoft's 'giving' the same/equivalent amount of unspecified 'free software' to the American public school system. Admittedly, our public schools are a deserving but extremely select, publicly supported organization/institution benefiting America's children, but said current offer would not immediately or in any way benefit the majority of the adult segment of the American Citizens whom have been wronged by Microsoft's illegal behavior.

Thank you for your kind and generous time and attention in reading my comments, and I pray that they will be brought to the Court's attention, on behalf of all of the end users and average Citizens in America, so that 'We, the People' (besides the children in our public school system) will have relief from Microsoft's unlawful behavior. (Just how did the original lawsuit allege that the school system was harmed by Microsoft's illegal behavior, anyway? I could not find any allusion to this fact in any of the relevant court documents in this case).

Very Truly Yours,

Dennis Dietzel
301-G Marshall Street
Jefferson City, Missouri 65101
1jklove@home.com

CC: The Honorable Ike Skelton, Member of Congress (MO)